

Amendment No. 1 to SB0745

Kelsey  
Signature of Sponsor

**AMEND Senate Bill No. 745\***

**House Bill No. 934**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 28, Chapter 2, is amended by adding the following as a new section:

**28-2-112.**

(a) A person, and those claiming through such person, who receives title to a parcel conveyed pursuant to a tax proceeding is vested with an absolute and indefeasible title in fee in the parcel, unless a judicial action challenging the title of the parcel is filed in an appropriate court within three (3) years of the recording of the tax deed or order confirming the sale of the parcel in the office of the register of deeds for the county in which the parcel lies.

(b) A person, and those claiming through such person, whether under disability or not, who fails or neglects to file a judicial action challenging the title of a parcel conveyed pursuant to a tax proceeding within three (3) years of the recording of the tax deed or order confirming the sale of the parcel in the office of the register of deeds for the county in which the parcel lies, is barred from challenging the title of the parcel.

(c) The right to possession of a parcel pursuant to § 67-5-2503(a) constitutes adverse possession as to all other claimants of an interest in the parcel without any other action on the part of the person with the right to possession or the person's successors.

(d) This section is applicable regardless of whether the instrument of conveyance in a tax proceeding is subsequently invalidated or declared void.

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(e) The three-year periods established in subsections (a) and (b) begin on July 1, 2017, as to parcels conveyed by tax deed or order confirming the sale prior to July 1, 2017.

(f) Nothing in this section shall be construed to repeal or limit the application of § 67-5-2504.

(g) As used in this section:

(1) "Judicial action challenging the title of the parcel" includes actions to invalidate the title and actions to declare the instrument conveying the title void for any reason. "Judicial action challenging the title of the parcel" also includes motions, suits to quiet title or for declaratory judgment, and any other means or court proceeding by which the title to the parcel may be attacked; and

(2) "Proceeding" has the same meaning as defined in § 67-5-2502(c)(1).

SECTION 2. Tennessee Code Annotated, Section 67-5-705(e)(1), is amended by deleting the language "penalty and".

SECTION 3. Tennessee Code Annotated, Section 67-5-1329(c)(1), is amended by deleting the language "and penalty".

SECTION 4. Tennessee Code Annotated, Section 67-5-2010, is amended by deleting the section in its entirety and substituting the following:

(a)

(1) To the amount of tax due and payable, interest of one and one-half percent (1.5%) shall be added on March 1, following the tax due date and on the first day of each succeeding month, except as otherwise provided in regard to

municipal taxes. Any county having a population in excess of seven hundred thousand (700,000), according to the 1980 federal census or any subsequent federal census establishing tax due dates other than the first Monday in October in each year, in accordance with § 67-1-701(a), shall have the authority to establish the date that interest shall begin to accrue as the date of delinquency in lieu of March 1.

(2) The rate of interest as provided in this section may be reduced to an amount of not less than twelve percent (12%) per annum in the aggregate, upon approval by a two-thirds (2/3) vote of the appropriate local governing body that levied such taxes, in any county having a population of not less than twenty-four thousand six hundred (24,600) nor more than twenty-four thousand seven hundred (24,700), according to the 1980 federal census or any subsequent federal census.

(b) In all instances in which current municipal taxes are collected by the county trustee, the following provisions and rules for the collection of delinquent taxes that may be due to the municipalities and none other shall prevail and obtain, anything in this chapter to the contrary notwithstanding:

(1) The taxes levied and assessed by such municipalities shall become due and delinquent on the date as now provided by existing laws; and

(2) If such municipal taxes are not paid on or before the date fixed for the delinquencies thereof, to the amount of tax due and payable, interest of one and one-half percent (1.5%) shall be added on March 1, following the tax due date and on the first day of each succeeding month.

SECTION 5. Tennessee Code Annotated, Section 67-5-2012(e)(3), is amended by deleting the language "penalties and".

SECTION 6. Tennessee Code Annotated, Section 67-5-2418(a), is amended by deleting the subsection and substituting instead the following:

(a) Orders may be entered, notices may be filed, including notices adding parties and consolidating cases pursuant to § 67-5-2405(b)(2), and judgments may be taken against any one (1) or more defendants included in the action, without affecting the rights of the other parties to the action.

SECTION 7. Tennessee Code Annotated, Section 67-5-2501(a)(1), is amended by deleting the subdivision and substituting instead the following:

(1) The court shall order a sale of the land for cash, certified funds, cashier's check, money order, or automated clearing house transfer, as applicable. All sales are subject to the equity of redemption. Such sale may be conducted electronically in lieu of public outcry.

SECTION 8. Tennessee Code Annotated, Section 67-5-2501(b)(1), is amended by deleting the subdivision and substituting instead the following:

(1) The court shall order a sale of the land for cash, certified funds, cashier's check, money order, or automated clearing house transfer, as applicable. All sales are subject to the equity of redemption. Such sale may be conducted electronically in lieu of public outcry.

SECTION 9. Tennessee Code Annotated, Section 67-5-2502(a), is amended by adding the following new subdivisions:

(5)

(A) Service on or notice to a nominee or agent of an owner, where the nominee or agent is identifiable from information provided in the deed or deed of trust, shall constitute service on or notice to the owner.

(B) Service on or notice to a nominee or agent of an owner, where the nominee or agent is identifiable from information provided in the deed or deed of trust, shall constitute service on or notice to all assignees of the owner if evidence of the assignment has not been recorded in the office of the register of deeds in the county where the parcel is located.

(C) This subdivision (a)(5) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by law.

(6) The clerk or special master conducting the sale may, on suggestion of the delinquent tax attorney, withdraw any parcel from the sale.

SECTION 10. Tennessee Code Annotated, Section 67-5-2504, is amended by adding the following new subsection:

(i)

(1) An interested person may file an action to challenge a tax title or the instrument conveying such title if the delinquent tax attorney fails to make a diligent effort to give actual notice of the proceeding to the interested person in accordance with § 67-5-2502(c)(3).

(2) Any challenge to a tax title based on lack of notice to an interested party, including any action seeking to declare a title or the instrument conveying such title void ab initio, shall be considered an action to invalidate the sale of a tax title and such action is subject to the provisions of parts 18-28 of this chapter applying to actions to invalidate the sale of a tax title, including the required tender of payment before commencement of a suit in accordance with subsection (c).

(3) This subsection (i) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by law.

SECTION 11. Tennessee Code Annotated, Section 67-5-2504(c), is amended by deleting the language "invalidate any" and substituting instead "invalidate or declare void any".

SECTION 12. Tennessee Code Annotated, Section 67-5-2504(d)(4), is amended by deleting the subdivision and substituting instead the following:

(4) This subsection (d) shall not be construed to prevent or delay issuance of an order quieting title to a tax sale parcel in favor of the purchaser. After entry of an order confirming the sale of a parcel, the purchaser may file suit to quiet title, notwithstanding

the deadline for tax sale challenges provided in this subsection (d), or the redemption period provided in part 27 of this chapter. Any order quieting title to a tax sale parcel entered before the expiration of the redemption period shall specify that the purchaser's title to the parcel remains subject to any such remaining redemption period.

SECTION 13. Tennessee Code Annotated, Section 67-5-2507(a), is amended by adding the following new subdivision:

(4) If the county mayor determines, prior to the sale of a parcel brought in by the county at a delinquent tax sale, that there may be a defect in the title to the parcel, the county mayor may move the court in which the parcel was sold in the tax proceeding, to take action to cure the defect. A diligent effort to give notice of any such motion shall be made as to all interested persons as of the date of the filing of the motion.

SECTION 14. Tennessee Code Annotated, Section 67-5-2507(c), is amended by deleting the subsection and substituting instead the following:

(c)

(1) As to a particular parcel conveyed to a county pursuant to § 67-5-2501, the county mayor may make an evaluation of the parcel to determine whether the value of the parcel or amount of money the county is likely to receive if the county sold the parcel exceeds the financial obligations or environmental risks associated with the parcel.

(2) If the county mayor determines that such financial obligations or environmental risks exceed the value of the parcel, the county legislative body may adopt a resolution, by a two-thirds (2/3) vote, concurring in the county mayor's determination and directing the county mayor to request relief from the court in which the parcel was sold. Such relief shall be sought by motion pursuant to Rule 60 of the Tennessee Rules of Civil Procedure filed within one hundred twenty (120) days after the entry of the order confirming the sale.

(3) If the court finds that the motion should be granted, the court may rescind its prior order upon such terms as are just. In the event the prior order is rescinded, title to the parcel shall be deemed to have remained in that state which existed as of the date of entry of the prior order confirming the sale. The court shall have broad discretion to insure that this subsection (c) does not result for any period of time in the creation of a parcel for which no person or entity has responsibility. The court may then appoint a special master and direct the special master to conduct a second sale of the parcel upon such terms and conditions as may be ordered by the court, including the reduction or elimination of the minimum bid that may be accepted at the sale.

(4) In the event no person presents a bid at the second sale of the parcel, the court may thereafter approve a negotiated sale of the parcel upon such terms and conditions as may be ordered by the court or such other relief as the court may order, including the conveyance to a nongovernmental entity claiming contractual rights to dues or assessments pursuant to § 67-5-2516.

(5) This subsection (c) shall be applicable to the financial obligations or environmental risks of an individual parcel only and shall not be applicable to the aggregated financial obligations or environmental risks of all or multiple parcels bid in to the county pursuant to § 67-5-2501.

SECTION 15. Tennessee Code Annotated, Section 67-5-2511, is amended by deleting the section and substituting instead the following:

(a)

(1) The county mayor shall cause to be prepared and maintained a listing of all parcels owned by the county acquired pursuant to § 67-5-2501.

(2) The chief executive officer of a municipality shall cause to be prepared and maintained a listing of all parcels owned by the municipality

acquired pursuant to § 67-5-2501; provided, however, that the listing may omit any property that is required to be listed by a county under subdivision (a)(1).

(3) Listings pursuant to this subsection (a) shall be prepared no later than July 1, 2018. The listings shall be published in a newspaper of general circulation in the county or posted on the local government website with a notice of the posting published in a newspaper of general circulation in the county.

(b) At least annually, the county mayor shall determine if any additional parcels have been purchased by the county pursuant to § 67-5-2501 and shall publish an updated list, as necessary, in the same manner as the original list in accordance with subdivision (a)(3).

(c) Each list or notice published in accordance with this section may contain a solicitation for offers to purchase the parcels listed and a statement as to how and where such offers may be filed.

(d) Parcels acquired by the county which are identified by the county mayor, or the mayor's designee, as being in an area or zoning classification that would make the accumulation of larger areas advantageous to the reuse and redevelopment of the parcels, may be excluded from the list of parcels prepared and maintained under this section until a sufficient number of parcels or property has been acquired to improve the marketability and redevelopment profile of the parcels. In no event shall this accumulation result in property being held without being published for more than five (5) years. A separate list of such designated parcels shall be maintained by the mayor or the mayor's designee.

SECTION 16. Tennessee Code Annotated, Section 67-5-2701(b), is amended by designating the existing language as subdivision (b)(1) and adding the following new subdivisions:

(2) In any motion to enforce a right of redemption brought by a transferee against a tax sale purchaser or other interested party:



(A) The tax sale purchaser or other interested party in whom the right of redemption originally vested must be served with a copy of the motion to redeem;

(B) The motion to redeem must be denied on the objection or response to the motion to redeem by the tax sale purchaser or any other interested party if it appears that the transferee is engaged in speculation or profiteering with respect to such right of redemption;

(C) Such speculation and profiteering is presumed if it appears that the transfer of the right of redemption was made for consideration in an amount less than the purchase price paid by the tax sale purchaser at the tax sale minus the amount the debtor would have been required to pay to redeem the property under this chapter; and

(D) If a motion to redeem by a transferee is denied under this subdivision (b)(2) based on a finding by the court of such speculation and profiteering, the court may award reasonable attorney's fees to the tax sale purchaser or any other interested party challenging the motion to redeem.

(3) Subdivision (b)(2) is intended to:

(A) Further the public policies of this state of protecting the interests of owners of real property subject to debt, protecting the integrity of the tax sale process, providing reliable tax sale titles to purchasers, and prohibiting the profiteering and speculation in rights of redemption; and

(B) Be remedial and construed to apply to any existing rights of redemption.

SECTION 17. Tennessee Code Annotated, Section 67-5-2701(e)(1), is amended by deleting the language "against the parcel;" and substituting instead the following:

against the parcel, plus interest thereon at the rate set forth in subsection (b), accruing from the date of payment of the additional taxes by the purchaser until the date of payment by the proposed redeemer pursuant to order of the court;

SECTION 18. Tennessee Code Annotated, Section 67-5-2701, is amended by adding the following new subsections (o) and (p):

(o) During the redemption period, the purchaser shall have no obligation to purchase insurance on the parcel and shall not be liable to a person redeeming the parcel for damages to the parcel during such redemption period unless such damages are directly caused by intentional acts of the purchaser. This subsection (o) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by law.

(p) During the redemption period and thereafter, a taxing entity which has purchased a parcel pursuant to § 67-5-2501 shall have no obligation to preserve the value of the parcel. This subsection (p) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by law.

SECTION 19. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act shall be severable.

SECTION 20. This act shall take effect July 1, 2017, the public welfare requiring it.